



March 22, 2001

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## ENGROSSED SENATE BILL No. 574

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DIGEST OF SB 574 (Updated March 20, 2001 5:49 PM - DI 105)

**Citations Affected:** IC 11-13; noncode.

**Synopsis:** Parole board investigations. Allows the parole board, when considering the release on parole of an offender who was previously released on parole and whose parole was revoked, to use a community investigation prepared for an earlier parole hearing to satisfy the requirement that a community investigation be conducted. Requires the parole board to accept and consider a statement from a victim, or victim's relative or friend, as a supplement the community investigation.

**Effective:** July 1, 2001.

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### Landske, Alexa, Meeks C

(HOUSE SPONSORS — STURTZ, AYRES)

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January 23, 2001, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

February 8, 2001, reported favorably — Do Pass.

February 12, 2001, read second time, ordered engrossed.

February 13, 2001, engrossed.

February 15, 2001, read third time, passed. Yeas 48, nays 0.

#### HOUSE ACTION

February 26, 2001, read first time and referred to Committee on Courts and Criminal Code.

March 21, 2001, amended, reported — Do Pass.

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ES 574—LS 7284/DI 51+



March 22, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## ENGROSSED SENATE BILL No. 574

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A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 11-13-3-3 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) A person  
3       sentenced under IC 35-50 shall be released on parole or discharged  
4       from the person's term of imprisonment under IC 35-50 without a  
5       parole release hearing.  
6       (b) A person sentenced for an offense under laws other than  
7       IC 35-50 who is eligible for release on parole, or a person whose parole  
8       is revoked and is eligible for reinstatement on parole under rules  
9       adopted by the parole board shall, before the date of the person's parole  
10      eligibility, be granted a parole release hearing to determine whether  
11      parole will be granted or denied. The hearing shall be conducted by one  
12      (1) or more of the parole board members. If one (1) or more of the  
13      members conduct the hearing on behalf of the parole board, the final  
14      decision shall be rendered by the full parole board based upon the  
15      record of the proceeding and the hearing conductor's findings. Before  
16      the hearing, the parole board shall order an investigation to include the  
17      collection and consideration of:

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- (1) reports regarding the person's medical, psychological, educational, vocational, employment, economic, and social condition and history;
- (2) official reports of the person's history of criminality;
- (3) reports of earlier parole or probation experiences;
- (4) reports concerning the person's present commitment that are relevant to the parole release determination;
- (5) any relevant information submitted by or on behalf of the person being considered; and
- (6) such other relevant information concerning the person as may be reasonably available.

(c) Unless the victim has requested in writing not to be notified, the department shall notify a victim of a felony (or the next of kin of the victim if the felony resulted in the death of the victim) or any witness involved in the prosecution of an offender imprisoned for the commission of a felony when the offender is:

- (1) to be discharged from imprisonment;
- (2) to be released on parole under IC 35-50-6-1;
- (3) to have a parole release hearing under this chapter;
- (4) to have a parole violation hearing;
- (5) an escaped committed offender; or
- (6) to be released from departmental custody under any temporary release program administered by the department, including the following:

(A) Placement on minimum security assignment to a program authorized by IC 11-10-1-3 or IC 35-38-3-6 and requiring periodic reporting to a designated official, including a regulated community assignment program.

(B) Assignment to a minimum security work release program.

(d) The department shall make the notification required under subsection (c):

- (1) at least forty (40) days before a discharge, release, or hearing occurs; and
- (2) not later than twenty-four (24) hours after the escape of a committed offender.

The department shall supply the information to a victim (or a next of kin of a victim in the appropriate case) and a witness at the address supplied to the department by the victim (or next of kin) or witness. A victim (or next of kin) is responsible for supplying the department with any change of address or telephone number of the victim (or next of kin).

(e) The probation officer conducting the presentence investigation

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shall inform the victim and witness described in subsection (c), at the time of the interview with the victim or witness, of the right of the victim or witness to receive notification from the department under subsection (c). The probation department for the sentencing court shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department of correction. The probation department shall supply the department with the information required by this section as soon as possible but not later than five (5) days from the receipt of the information from the victim. A victim (or next of kin) is responsible for supplying the department with the correct address and telephone number of the victim (or next of kin).

(f) Notwithstanding IC 11-8-5-2 and IC 4-1-6, an inmate may not have access to the name and address of a victim and a witness. Upon the filing of a motion by any person requesting or objecting to the release of victim information, witness information, or both that is retained by the department, the court shall review the information that is the subject of the motion in camera before ruling on the motion.

(g) The notice required under subsection (c) must specify whether the prisoner is being discharged, is being released on parole, is having a parole release hearing, is having a parole violation hearing, or has escaped. The notice must contain the following information:

- (1) The name of the prisoner.
- (2) The date of the offense.
- (3) The date of the conviction.
- (4) The felony of which the prisoner was convicted.
- (5) The sentence imposed.
- (6) The amount of time served.
- (7) The date and location of the interview (if applicable).

(h) The parole board shall adopt rules under IC 4-22-2 and make available to offenders the criteria considered in making parole release determinations. The criteria must include the:

- (1) nature and circumstances of the crime for which the offender is committed;
- (2) offender's prior criminal record;
- (3) offender's conduct and attitude during the commitment; and
- (4) offender's parole plan.

(i) The hearing prescribed by this section may be conducted in an informal manner without regard to rules of evidence. In connection with the hearing, however:

- (1) reasonable, advance written notice, including the date, time, and place of the hearing shall be provided to the person being considered;



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(2) the person being considered shall be given access, in accord with IC 11-8-5, to records and reports considered by the parole board in making its parole release decision;

(3) the person being considered may appear, speak in the person's own behalf, and present documentary evidence;

(4) irrelevant, immaterial, or unduly repetitious evidence shall be excluded; and

(5) a record of the proceeding, to include the results of the parole board's investigation, notice of the hearing, and evidence adduced at the hearing, shall be made and preserved.

(j) If parole is denied, the parole board shall give the person written notice of the denial and the reasons for the denial. The parole board may not parole a person if it determines that there is substantial reason to believe that the person:

(1) will engage in further specified criminal activity; or

(2) will not conform to appropriate specified conditions of parole.

(k) If parole is denied, the parole board shall conduct another parole release hearing not earlier than five (5) years after the date of the hearing at which parole was denied. However, the board may conduct a hearing earlier than five (5) years after denial of parole if the board:

(1) finds that special circumstances exist for the holding of a hearing; and

(2) gives reasonable notice to the person being considered for parole.

(l) The parole board may parole a person who is outside Indiana on a record made by the appropriate authorities of the jurisdiction in which that person is imprisoned.

(m) If the board is considering the release on parole of an offender who is serving a sentence of life in prison, a determinate term of imprisonment of at least ten (10) years, or an indeterminate term of imprisonment with a minimum term of at least ten (10) years, in addition to the investigation required under subsection (b) the board shall order and consider a community investigation, which must include an investigation and report that substantially reflects the attitudes and opinions of:

(1) the community in which the crime committed by the offender occurred;

(2) law enforcement officers who have jurisdiction in the community in which the crime occurred;

(3) the victim of the crime committed by the offender, or if the victim is deceased or incompetent for any reason, the victim's relatives or friends; and

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(4) friends or relatives of the offender.

**If the board reconsiders for release on parole an offender who was previously released on parole and whose parole was revoked under section 10 of this chapter, the board may use a community investigation prepared for an earlier parole hearing to comply with this subsection. However, the board shall accept and consider any supplements or amendments to any previous statements from the victim or the victim's relatives or friends.**

(n) As used in this section, "victim" means a person who has suffered direct harm as a result of a violent crime (as defined in IC 5-2-6.1-8).

**SECTION 2. [EFFECTIVE JULY 1, 2001] IC 11-13-3-3, as amended by this act, applies to all parole determinations made after June 30, 2001, including a determination after June 30, 2001, to reconsider the release of an offender on parole whose parole was revoked before July 1, 2001.**

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SENATE MOTION

Mr. President: I move that Senator Alexa be added as second author of Senate Bill 574.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill No. 574, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 574 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 11, Nays 0.

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SENATE MOTION

Mr. President: I move that Senator Meeks C be added as coauthor of Senate Bill 574.

LANDSKE

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 574, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 5, line 6, after "subsection." insert "**However, the board shall accept and consider any supplements or amendments to any previous statements from the victim or the victim's relatives or friends.**".

and when so amended that said bill do pass.

(Reference is to SB 574 as printed February 9, 2001.)

DVORAK, Chair

Committee Vote: yeas 12, nays 0.

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